

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

SHAWN ATKINSON,

Plaintiff,

Civil Action No.
12-CV-11905

vs.

HON. MARK A. GOLDSMITH

RONALD WYSE, et al.,

Defendants.

**ORDER (1) ACCEPTING THE RECOMMENDATION CONTAINED IN THE
MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION DATED JULY 31,
2013, (2) GRANTING DEFENDANTS' MOTIONS TO DISMISS OR,
ALTERNATIVELY, FOR SUMMARY JUDGMENT, (3) DENYING PLAINTIFF'S
MOTION FOR LEAVE TO FILE AMENDED COMPLAINT, (4) DENYING
PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT, and (5) DISMISSING
STATE LAW CLAIMS WITHOUT PREJUDICE**

This matter is presently before the Court on the Report and Recommendation ("R&R") of Magistrate Judge Mark A. Randon, issued on July 31, 2013 (Dkt. 31). The Magistrate Judge recommends that (i) the motion to dismiss of Defendants Bradshaw, Brown, Cooke, Custard, Murchinson, Owens, Rodgers, Schort, Debra Scutt, Smith, Stone, and Wyse (Dkt. 16) be granted; (ii) the motion to dismiss of Defendant Meeker (Dkt. 26) be granted; (iii) Plaintiff's motion for summary judgment (Dkt. 22) be denied; (iv) Plaintiff's motion for leave to file amended complaint (Dkt. 14) be denied; and (v) Plaintiff's state law claims be dismissed without prejudice.

The parties have not filed objections to the R&R, and the time to do so has expired. See Fed. R. Civ. P. 72(b)(2). The failure to file a timely objection to an R&R constitutes a waiver of the right to further judicial review. See Thomas v. Arn, 474 U.S. 140, 150 (1985) ("It does not appear that Congress intended to require district court review of a magistrate's factual or legal conclusions, under a de novo or any other standard, when neither party

objects to those findings.”); Smith v. Detroit Fed’n of Teachers, 829 F.2d 1370, 1373-1374 (6th Cir. 1987) (failure to file objection to R&R “waived subsequent review of the matter”); Cephas v. Nash, 328 F.3d 98, 1078 (2d Cir. 2003) (“As a rule, a party’s failure to object to any purported error or omission in a magistrate judge’s report waives further judicial review of the point.”); Lardie v. Birkett, 221 F. Supp. 2d 806, 807 (E.D. Mich. 2002) (“As to the parts of the report and recommendation to which no party has objected, the Court need not conduct a review by any standard.”). There is some authority that a district court is required to review the R&R for clear error. See Fed. R. Civ. P. 72 Advisory Committee Note Subdivision (b) (“When no timely objection is filed, the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.”). Therefore, the Court has reviewed the R&R for clear error. On the face of the record, the Court finds no clear error and adopts the recommendation.

SO ORDERED.

Dated: August 20, 2013
Flint, Michigan

s/Mark A. Goldsmith
MARK A. GOLDSMITH
United States District Judge

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was served upon counsel of record and any unrepresented parties via the Court's ECF System to their respective email or First Class U.S. mail addresses disclosed on the Notice of Electronic Filing on August 20, 2013.

s/Deborah J. Goltz
DEBORAH J. GOLTZ
Case Manager